

1 Francisco Leon  
2 **FRANCISCO LEON, P.C.**  
3 9121 E. Tanque Verde Road, #104-430  
4 Tucson, Arizona 85749  
5 Az. Bar. No. 006578  
6 (520)305-9170  
7 (520)465-3000  
8 FAX (520)395-9495

9 **UNITED STATES DISTRICT COURT**  
10 **DISTRICT OF NEW MEXICO**

11 UNITED STATES OF AMERICA, )

12 Plaintiff, )

13 vs. )

14 \$142,100.00 IN U.S. CURRENCY, )  
15 \$5,000.00 IN U.S. CURRENCY, )

16 Defendant. )

CIV No. 11-820-WDS/LAM

ANSWER TO FORFEITURE  
COMPLAINT AND DEMAND

17 Claimant Oscar Rogelio Gonzalez-Rodriguez, by and through his counsel  
18 undersigned, Francisco Leon, respectfully represents the following by way of Answer to the  
19 Complaint in Forfeiture.

20 Claimant Gonzalez-Rodriguez answers the allegations of the Complaint as  
21 follows:

- 22 1. The allegations of paragraphs 1, 2, 3, 4, 5, 6, 8, 11, 15 of the complaint are admitted.
- 23 2. Admits paragraph 7 but denies that he was "extremely nervous."
- 24 3. Claimant Gonzalez-Rodriguez has insufficient knowledge or information to form a  
25 belief as to the truth of allegations in paragraph 9, 10, 17, 18 of the complaint  
26 therefore denies all the allegations therein.
- 27 4. Claimant Gonzalez-Rodriguez denies paragraphs 12, 13, 14, 15, 16, 19, 20, 21 22 and  
28

1 each and every other allegation not specifically admitted herein.

2 5. In addition, Claimant Gonzalez-Rodriguez raises the following numbered defenses  
3 to the government's forfeiture suit.  
4

5 **First Defense**

6 The Plaintiff has violated Claimant's rights to due process by its seizure of the  
7 currency and the lengthy detention of the currency without acting in compliance with the  
8 rules and regulations of the Plaintiff regarding forfeitures until prompted to do so by  
9 Claimant.  
10

11 **Second Defense**

12 The burden of proof as provided under the United States Constitution and  
13 statutes is unconstitutional on its face and as applied to Claimant in this case insofar as  
14 requires Claimant to prove that the currency was not knowingly involved in illegal activity  
15 and was not going to be used to commit a crime and be used in a manner which would  
16 subject the currency to forfeiture.  
17

18 **Third Defense**

19 The seizure and detention of the defendant property by the United States and  
20 its agents and this subsequent prosecution to forfeit the currency violates the statutory  
21 provisions of the innocent owner exemption under federal law.  
22

23 **Fourth Defense**

24 Alternatively, in the event the defendant property is subject to forfeiture, the  
25 forfeiture is disproportionate and excessive in relation to the conduct of the claimant to the  
26 alleged criminal conduct which subjects the property to forfeiture.  
27

28 Please take notice that Claimant demands trial by the court of the issues and

1 defenses raised by his claim and answer.

2 WHEREFORE, Claimant Gonzalez-Rodriguez prays the Court will:

- 3 1. Dismiss Plaintiff's complaint and enter judgment in favor of Claimant.
- 4 2. Deny Plaintiff's prayer for declaratory judgment that it is the legal owner of the
- 5 property seized and award costs and attorney's fees to Claimant.
- 6 3. Provide such other relief as the Court deems just and proper.

7 SUBMITTED this 1<sup>st</sup> day of December, 2011.

8 **FRANCISCO LEON, P.C.**

9 *s/Francisco Leon*

10 **CERTIFICATE OF SERVICE**

11 I hereby certify that on this 1<sup>st</sup> day of December, 2011, a copy of the foregoing

12 Answer to Complaint was served electronically upon Stephen R. Kotz and Cynthia L.

13 Weisman, Assistant United States Attorneys, P.O. Box 607, Albuquerque, NM 87103.

14 **FRANCISCO LEON, P.C.**

15 *s/Francisco Leon*